

## REMARKS/ARGUMENTS

In the Office Action issued October 17, 2007, claims 1-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mogenson, U.S. Patent App. Pub. No. 2004/0105460 (“Mogenson”) in view of Larson et al., U.S. Patent No. 5,241,690 (“Larson”). Claim 10 was rejected under 35 U.S.C. § 112, ¶1 as being unclear.

Claims 1-23 are now pending in this application. Claims 1 and 19-23 have been amended to clarify the subject matter that the Applicant considers to be the invention. Claim 10 has been amended to clarify the subject matter that the Applicant considers to be the invention and to overcome the rejection. No new matter has been added.

The Applicant respectfully submits that claims 1-23 are not unpatentable over Mogenson in view of Larson. Mogenson discloses transmitting data from a first node to a second node of a communication system, in a first mode of operation transmitting data via a first communication channel in which the power level of the channel at said first node is not indicated to the second node, and in a second mode of operation transmitting said data via said first communication channel and indicating the power level of the channel at said first node to said second node. However, as indicated by the Examiner, Mogenson does not disclose adjusting the threshold value when the signal transmission quality is within a predetermined range of the threshold value and maintaining the threshold value unchanged when the signal transmission quality is outside that range and further does not disclose or suggest leaving a selected modulation and coding level unchanged even though the comparison between a signal transmission quality and the threshold value indicates that the modulation and coding level should be increase, when

the transmitted signal is not successfully received at the receiver; and, as is required by claims 1 and 19-23.

Larson discloses regulating or adjusting the transmission power when transmitting signals between a mobile station and a base station in a digital mobile telephony system. In particular, Larson discloses that the transmission power is increased when the anticipated transmission quality is less than that desired and is decreased when the anticipated quality is higher than the highest permitted quality or when the anticipated signal strength is greater than the maximum permitted value. Otherwise, the transmission power is maintained unchanged. However, Larson does not disclose or suggest does not disclose or suggest leaving a selected modulation and coding level unchanged even though the comparison between a signal transmission quality and the threshold value indicates that the modulation and coding level should be increase, when the transmitted signal is not successfully received at the receiver.

Thus, even if Mogenson and Larson were combined as suggested by the Examiner, the resulting combination still would not disclose or suggest leaving a selected modulation and coding level unchanged even though the comparison between a signal transmission quality and the threshold value indicates that the modulation and coding level should be increase, when the transmitted signal is not successfully received at the receiver.

Therefore, claims 1 and 19-23, and claims 2-18, which depend from claim 1, are not unpatentable over Mogenson in view of Larson.

Each of the claims now pending in this application is believed to be in condition for allowance. Accordingly, favorable reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

**Additional Fees:**

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 50-4047 (7062062001).

**Conclusion**

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,

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for

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